



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
THE CHAMPION COMPANY }

For Appellant: A. M. Ansevin, Assistant-Treasurer

For Respondent: Burl D. Lack, Chief Counsel;
 Israel Rogers, Assistant Counsel

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APPEALS AND TAX
FRANCHISE TAX

O P I N I O N

This appeal is made pursuant to Section 25667 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of The Champion Company to a proposed assessment of additional franchise tax in the amount of \$104.57 for the income year ended July 31, 1955.

Appellant is an Ohio corporation which did business both within and without California during the year in question. It is engaged in manufacturing and selling.

Appellant is composed of two divisions. The Special Products Division manufactures and sells metal containers for the storage and transportation of various items. The Funeral Division manufactures and sells embalming fluid, metal burial vaults, metal operating tables and embalming machines. The Funeral Division is divided into an eastern subdivision and a Pacific subdivision for sales purposes, with a separate supervisor for each. California is one of the states which comprise the Pacific subdivision of the Funeral Division.

All manufacturing activity for both Special Products Division and Funeral Division is done in Appellant's plant in Springfield, Ohio. Separate departments handle some portions of the manufacturing process for the two divisions. A single department, however, does all shearing and press work. Each division is charged on a direct hourly basis for this work.

Appellant uses central management, central accounting and central purchasing for both of the divisions. It does, however, maintain separate profit and loss statements for each subdivision of the Funeral Division and for the Special Products Division.

For the year in question Appellant paid tax on the amount of income attributed to California by the separate accounting system which it utilized.

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Respondent treated the business as unitary and substituted formula apportionment for the separate accounting method used by Appellant. It computed Appellant's California net income by use of a three-factor formula composed of property, payroll and sales.

The main issue to be determined is whether Appellant's business is a unitary one.

If there is an interdependence between the divisions of Appellant's business, then the business is to be regarded as unitary. (Edison California Stores, Inc. v. McColgan, 30 Cal. 2d 472.) The use of a single manufacturing plant, the existence of central purchasing, central management and central accounting, and the fact that portions of the manufacturing process are done for both divisions in a common operation show that Appellant's divisions are interdependent. Therefore, its business must be classed as unitary.

Appellant contends that its separate accounting method is more reasonable in its allocation of net income to California than the formula used by Respondent. A similar argument was advanced in John Deere Plow Co. v. Franchise Tax Board, 38 Cal. 2d 214, to which the court replied as follows:

But in so arguing plaintiff fails to take into account the underlying concept of formula apportionment in the allocation of income from a unitary business: that the unitary income is derived from the functioning of the business as a whole, to which the activities in the various states contribute; and **that by** reason of such interrelated activities in the integrated overall enterprise, the business done within the state is not truly separate and distinct from the business done without the state so as reasonably to permit of a segregation of income under the separate accounting method rather than use of the formula method in assigning to the taxing state its fair share of taxable values.

As that case also points out, the propriety of employing the property, payroll and sales formula to allocate the net income of a unitary business is well established.

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O R D E R

Pursuant to the views expressed in the Opinion of the Board on file in this proceeding, and good cause appearing **there-** for,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 25667 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of The Champion Company to a proposed assessment of additional franchise tax in the amount of \$104.57 for the income year ended July 31, 1955, be and the same is hereby sustained.

Done at Sacramento, California, this 6th day of August, 1962, by the State Board of Equalization.

Geo. R. Reilly, Chairman

Paul R. Leake, Member

Richard Nevins, Member

John W. Lynch, Member

_____, Member

ATTEST: Ronald B. Welch , Acting Secretary